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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,955	02/01/2001	Anthony Pearson	1	9133
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Ryan, Mason & Lewis, LLP				
90 Forest Avenue				
Locust Valley, NY 11560				
		EXAMINER		
		EL HADY, NABIL M		
		ART UNIT		
		2154		
		PAPER NUMBER		

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,955

Applicant(s)

PEARSON, ANTHONY

Examiner

Nabil M El-Hady

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 1-19 are presented for examination.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-5, 7-14, 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Schmidt et al. (6,363,258) (hereinafter Schmidt).
4. As per claim 1, Schmidt teaches a portable communication device for facilitating group communications relating to predefined discussion topics between a user and one or more participants, the portable communication device comprising a full-duplex transceiver, the transceiver sending and receiving signals on one of a plurality of channels, each of the channels corresponding to a predefined discussion topic (e.g. col. 1, lines 46-50); and a channel selector operatively coupled to the transceiver for selecting a particular one of the transceiver channels and a corresponding discussion topic (e.g. col. 1, lines 55-60).
5. As per claim 10, it is rejected for similar reasons as stated above.
6. As per claim 18, it is rejected for similar reasons as stated above.
7. As per claim 2, Schmidt teaches at least one user-definable channel being assigned to a particular discussion topic by the user (e.g. col. 1, lines 45-50).
8. As per claim 11, it is rejected for similar reasons as stated above.

9. As per claim 3, Schmidt teaches a processor operative to at least partially control one or more functions of the portable communication device (e.g. col. 3, lines 54-60).

10. As per claim 12, it is rejected for similar reasons as stated above.

11. As per claim 4, Schmidt teaches a display operatively coupled to the processor, the display visually indicating at least one of (i) a selected channel (e.g. col. 3, lines 54-63, it is an inherent property of the display 28 to show various aspects and information related to each call); (ii) a corresponding discussion topic assigned to the selected channel (e.g. col. 3, lines 54-63 it is an inherent property of the display 28 to show various aspects and information related to each call); and (iii) a number of users participating in the selected discussion topic (e.g. col. 3, lines 54-63 it is an inherent property of the display 28 to show various aspects and information related to each call).

12. As per claim 13, it is rejected for similar reasons as stated above.

13. As per claim 5, Schmidt teaches voice recognition circuitry operatively coupled to the transceiver, the voice recognition circuitry being responsive to one or more audio input signals and at least partially controlling the transceiver for transmitting the audio input signals to the one or more participants (e.g. col. 4, lines 60-65).

14. As per claim 14, it is rejected for similar reasons as stated above.

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15. As per claim 19, it is rejected for similar reasons as stated above.

16. As per claim 7, Schmidt teaches Menu circuitry operatively coupled to at least one of the transceiver and the channel selector, the menu circuitry providing an interface for indicating to a present setting of one or more predetermined functions of the portable communication device and for modifying the one or more predetermined functions (e.g. col. 5, lines 35-43); and an indicator operatively coupled to the menu circuitry for indicating the one or more predetermined functions of the portable communication device (e.g. col. 3, lines 55-62).

17. As per claim 16, it is rejected for similar reasons as stated above.

18. As per claim 8, Schmidt teaches an input to the transceiver for being operatively coupled to a microphone transducer (e.g. col. 4, lines 28-45); an output for being operatively coupled to an earpiece transducer (e.g. col. 4, lines 28-45); and an antenna connection for being operatively coupled to an antenna (e.g. col. 4, lines 28-45).

19. As per claim 17, it is rejected for similar reasons as stated above.

20. As per claim 9, Schmidt teaches an on-line indicator, the on-line indicator being responsive to at least one of (i) a participant entering a selected channel and (ii) a participant leaving the selected channel, the on-line indicator providing an indication in response thereto (e.g. col. 2, lines 50-60).

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21. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt in view of Park (6,260,012).

22. As per claim 6, Schmidt does not specifically teach the portable communication device wherein the voice recognition circuitry is further operative to at least partially control the channel selector in response to the one or more audio input signals. Park teaches the portable communication device wherein the voice recognition circuitry is further operative to at least partially control the channel selector in response to the one or more audio input signals (e.g. col. 4, lines 23-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Schmidt with Park. The motivation would have been for speech recognition capabilities in the communications device.

23. As per claim 15, it is rejected for similar reasons as stated above.

24. Applicant's arguments filed 8/18/2004 have been fully considered but they are not persuasive. Therefore, the rejection of claims 1-19 is maintained.

25. In the remarks, applicants argued in substance that (1), Schmidt fails to disclose a portable communication device relating to predefined discussion topics, (2), Schmidt fails to disclose transceiver for sending and receiving signals on one of a plurality of channels, each corresponding to a predetermined discussion topic, and (3), Schmidt fails to disclose a channel selector. Examiner respectfully traverses applicants' remarks.

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26. As to point (1), in response to applicant's arguments, the recitation "relating to predefined discussion topics" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

27. As to point (2), Schmidt discloses transceiver (38, 50, Fig. 2) for sending and receiving signals on one of a plurality of channels (channel coder 46, Fig. 2; and col. 10, lines 51-65), each corresponding to a predetermined discussion topic (a predetermined call type may be viewed as a predetermined discussion topic).

28. As to point (3), Schmidt discloses a channel selector (controller 22, Fig. 2; and col. 5, lines 8-14).

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nabil M El-Hady whose telephone number is (571) 272-3963. The examiner can normally be reached on 9:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 27, 2004



Nabil El-Hady, Ph.D, M.B.A.
Primary Patent Examiner
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